

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

MOTIONWARE ENTERPRISES INC.,

Plaintiff,

V.

1:22-CV-1225-RP

THE INDIVIDUALS, BUSINESS ENTITIES,
AND UNINCORPORATED
ASSOCIATIONS IDENTIFIED ON
EXHIBIT,

Defendants.

ORDER

Plaintiff Motionware Enterprises Inc. (“Motionware”) filed its motion for preliminary injunction on December 27, 2022. (P.I. Motion, Dkt. 17). Motionware asks the Court for an order enjoining the 413 Defendants identified in Schedule 1, (Dkt. 2-2), from reproducing Plaintiff’s images in an unauthorized manner and from transferring assets. (P.I. Motion, Dkt. 17, at 11–12). No Defendants have appeared on this case.

The Court has concerns about its personal jurisdiction over Defendants in this case. “The Court may raise the question of personal jurisdiction *sua sponte*.” *King v. Forest*, No. 3:08-CV-1405-L, 2008 U.S. Dist. WL 495149, at *4 (N.D. Tex. Nov. 14, 2008) (citing *Sys. Pipe & Supply, Inc. v. M/V VIKTOR KURNATOVSKIY*, 242 F.3d 322, 324 (5th Cir. 2001)). We “must determine whether exercising jurisdiction over the defendant is consistent with the due process clause analysis of minimum contacts.” *Sys. Pipe*, 242 F.3d at 324.

Here, Plaintiff has pled that “each Defendant has,” through their websites, “pursued sales from Texas residents by offering shipping to Texas . . . and . . . has induced sales by use of the Infringing Images to Residents of Texas.” (Compl., Dkt. 1, at 2–3). As evidence, Motionware presents a series of images showing that Defendants’ products are available to ship to addresses in

Texas. (Exhibits, Dkt. 2-3). While the Court must accept jurisdictional facts as true, it is not clear that the pleadings satisfy the minimum contacts standard. *Cf. Sys. Pipe*, 242 F.3d at 324 (“A single act will rarely suffice to meet the minimum contacts standard.”).

Nonetheless, the Court must “allow the plaintiff a reasonable opportunity to present any available evidence supporting the Court’s jurisdiction.” *Sys. Pipe*, 242 F.3d at 324. Therefore, the Court will afford Motionware the opportunity to brief the issue of personal jurisdiction.

Accordingly, **IT IS ORDERED** that Motionware shall file a supplemental brief, **limited to 10 pages**, on or before **January 21, 2023**, addressing the Court’s personal jurisdiction over Defendants. **IT IS FURTHER ORDERED** that Defendants may respond to the supplemental brief on or before **January 27, 2023**.

SIGNED on January 13, 2023.

A handwritten signature in blue ink, appearing to read "Robert Pitman", written over a horizontal line.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE